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SUPREME COURT OF THE UNITED STATES.

No. 48.

THE LIFE AND FIRE INSURANCE COMPANY OF NEW YORK, PLAINTIFF,

VERSUS

CHRISTOPHER ADAMS.

ON MOTION FOR A MANDAMUS TO THE DISTRICT COURT U. S. FOR THE EASTERN DISTRICT OF LOUISIANA.

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THE LIFE AND FIRE INSURANCE COMPANY OF NEW YORK *vs.* CHRISTOPHER ADAMS. } *No. 2,364, District Court of the United States, Eastern District of Louisiana.*

To the honorable the Supreme Court of the United States.

The petition of the plaintiffs above named respectfully represents:

That Christopher Adams, of the parish of Iberville, Louisiana, on the 16th day of January, 1824, executed and acknowledged at New Orleans

before a notary public, a mortgage of a certain plantation called the Belle plantation, in Iberville, aforesaid, with the appertenances to the same belonging; and, also, seventy slaves particularly named in said mortgage, for securing to your petitioners divers sums of money amounting together to thirty-two thousand five hundred and twenty-two dollars and fifty cents, and to be paid at the following periods, viz. 25,000 dollars in five equal annual payments: the first payment to be made on the 18th day of January, 1825, and the four others on the corresponding days of the each succeeding year, so that the last will become due on the 18th day of January, 1829.

1,500 dollars thereof payable in six month from the 18th day of November, 1823.

1,200 dollars thereof payable in eight months from the 18th day of November, 1823.

900 dollars thereof payable in thirty months from the 18th day of November, 1823.

600 dollars thereof payable in forty-two months from the 18th day of November, 1823.

300 dollars thereof payable in fifty-four months from the 18th day of November, 1823.

1,208 dollars and 75 cents payable in twelve months from the 18th day of November, 1823.

906 dollars and 25 cents payable in twenty-four months from the 18th day of November 1823.

605 dollars payable in thirty-six months from the 18th day of November, 1823, and 302 dollars and 50 cents payable in forty-eight months from the 18th day of November, 1823; all bearing interest at the rate of seven per cent. per annum; and for the whole of which sums the said Adams gave his promissory notes, as per copy of mortgage herunto annexed, No. 1.

Your petitioners further represent that no part of the said debt or sums of money has been paid; that, in consequence of the defalcations of the said Adams in making payment, application was made to his honor Thomas B. Robertson, then judge of the district court of the United States for the eastern district of Louisiana, for an order of seizure and sale, who granted the said order in words and figures following, viz. "Let the mortgaged premises set forth and stated in the plaintiff's petition, be seized and sold as therein prayed for, and in the manner directed by law, subject to the payment of debt of plaintiff.

"THOS. B. ROBERTSON.

"*Judge U. S., Eastern District Louisiana.*

"NEW ORLENS, *May* 15, 1826."

Your petitioners further represent that John Nicholson, United States' Marshal, pursuant to said order, levied on and seized the mortgaged premises, and advertised the same to be sold on the 23d day of March, 1826; previous to which, he was enjoined from further proceeding in the business; to which writ of injunction he made a return in words and figures following, viz.

"No. 2,382. *Christopher Adams vs. The Life and Fire Insurance Company of New York.*

"Received this writ of injunction on the 18th March, 1826, and served a copy thereof, and of plaintiff's petition on Ripley and Conrad: on same day

released the property in custody of marshal, at suit of Life and Fire Insurance Company of New York, against Christopher Adams, and returned into court on the 20th March instant."

Your petitioners further represent that, on the 16th day of May, 1826, they entered into a transaction before a notary, compromising all matters of difference between them and the said Christopher Adams, as per copy hereunto annnexed, No. 2; that, pursuant thereto, a judgment was recorded on the books of the said district court on the 18th day of May, 1826, which his honor Thomas B. Robertson, judge of the said court, refused to sign on account of indisposition, and he died without signing the same.

Your petitioners further represent that they sold, delivered, and conveyed the said notes, debt, judgment, securities, &c., therunto appertaining on the 28th day of July, 1826, to Josiah Barker, in trust for the Mercantile Insusance Company of New York, with power to use the names of your petitioners in the collection thereof, as per copy hereunto annexed, No. 3; and your petitioners further represent that they have no interest in the said claim; that the whole amount thereof, with interest and cost, remains due the Mercantile Insurance Company of New York.

Your petitioners further represent, that the honorable Samuel H. Harper was appointed judge of the said court, and that application was made to the said judge Harper to sign the said judgment; he refusing, application was made to this honorable court for a mandamus, commanding him to sign the same, and to order execution to issue thereon, which mandamus your honors granted at the last term of this honorable court, as per copy hereunto annexed, No. 4.

Your petitioners further represent, that the said mandamus was presented to the honorable Samuel H. Harper, judge of the district court of the United States for the eastern district of Louisiana, on the 7th day of March, 1834; that his honor thereupon signed the judgment which had been entered on the 18th day of May, 1826, as per copy hereunto annexed, No. 5, when permission was *was* asked of the said district court to enter a further judgment on the records of the court for the notes due subsequent to the 16th day of May, 1826: his honor, judge Harper, refused, and said that he should not sign any thing more than the judgment which judge Robertson had omitted to sign, and order execution to issue thereon, superadding that he considered the whole question settled by the mandamus, and that it would be the duty of the clerk to issue an execution for the amount of all the notes mentioned in the compromise.

It was urged that your petitioners, their successors, and attorneys, had full authority, acccompanied by a vested right, and was therefore irrevocable to enter up judgment by confession on all the notes mentioned in the compromise and referred to in the decree of the court, which became due subsequent to the 16th day of May, 1826; that the compromise originally contemplated further action before execution under it should issue; that such further action was neglected by the defendants, and not performed by your petitioners in consequence of the said judgment not having been signed; that there had been a stay of execution until all the notes should reach maturity, with an express reservation of all the plaintiff's liens, mortgages, and preferences in and over the property mortgaged; that by the terms of the said compromise, it would seem that all the notes were to be embraced in one execution, and that the probable meaning of the mandamus, *where it required his honor Judge Harper to order the execution*, was, that the

records of the district court should be so made, as for it to be the duty of the clerk to issue the execution contemplated by the compromise and judgment, without any special order from the court to do so; that if he should do it without a further confession of judgment, it might be deemed defective, if it was not the intention of the Supreme Court to direct execution for the amount of all the notes without such formality. His honor the judge said that, without notice to the defendants, he would not allow any further judgment to be entered up; when he was requested to have a rule entered, requiring the clerk to issue execution for the amount of all the notes, which he declined, saying, that a rule might be entered for the *whole* amount of the judgment; that if the clerk asked his advice, he should advise him that the mandamus embraced all the notes; but that the clerk knew his own duties, and must perform them; superadding, that the execution must be issued on the responsibility of the plaintiffs, and not of the court.

Your petitioners further represent, that on the following day an inquiry was made of the court, as to the effect and consequence of taking out an execution for too large an amount; his honor Judge Harper replied, that on application from the defendants, and on being convinced of that fact, he should reduce it to the proper amount, when the rule, as per copy hereunto annexed, No. 6, was entered, and the clerk required by the trustee of the claim to issue an execution for the amount of all the notes which he did issue, as per copy hereunto annexed, No. 7, and before this execution was delivered by the clerk to the marshal, it was objected to on the ground that it directed the seizure of other property before the mortgaged premises; the clerk, notwithstanding such objection, delivered the execution to the marshal, when the marshal was immediately, by letter, as per copy hereunto annexed, No. 8, requested to return the same not executed, and the clerk, by letter, as per copy hereunto annexed, No. 9, required to issue a new execution.

Your petitioners beg leave further to represent to this honorable court, that in consequence of his honor Judge Harper refusing to allow a further judgment in the case to be entered up, the trustee, on the opening of the court on Monday morning, the 10th day of March, 1834, caused a paper confessing judgment to be read, as per copy hereunto annexed, No. 10, and asked leave to have the same entered on the clerk's minutes. The judge refused to allow such entry, or to have the paper filed without notice to the opposite party, but offered to grant a rule requiring the defendants to show cause why the judgment should not be entered. This was declined, in the belief that the parties were not entitled to notice in cases of confession of judgment, and because the distance of their residence would not admit their appearing before the court would adjourn. The judge then granted permission to file the said confession, subject to all legal exceptions; and it was accordingly filed on the said 10th day of March, and on the 12th day of March, the clerk of the said court issued the second execution, as per copy hereunto annexed, No. 11, which execution the marshal was requested to enforce, as per copy hereunto annexed, No. 12.

Your petitioners further represent that, on the 8th day of April, 1834, the counsel for this claim was, as counsel for another claim under circumstances nearly similar, served with a copy of an affidavit and rule of the said district court, to show cause why a second execution issued under similar circumstances, in the case of the Life and Fire Insurance Company of New York *vs.* the heirs of Nicholas Wilson, should not be quashed, as per copies

hereunto annexed, No. 13 and 14; which rule was subsequently granted by his honor Judge Harper, who ordered the clerk to issue a new execution for the amount of notes due prior to the 18th day of May, 1826, against the property mortgaged only, and to omit the order to demand payment: whereupon a rule was entered by the clerk, under the directions of the judge, on the records of the court, as per copy hereunto annexed, No. 15, considering the points here decided equally applicable to the above entitled suit; and the marshal having refused to proceed without a bond of indemnity against the property mortgaged, in consequence of the surrender of the estate of Christopher Adams under the insolvent laws of the State of Louisiana, as mentioned in a letter, of which a copy is hereunto annexed, No. 16, the marshal was requested to return the said second execution; which he did return, as per copy hereunto annnexed, No. 17; that the clerk was requested to issue a new execution, which was accordingly issued, as per copy hereunto annexed, No. 18; which the marshal refused to enforce, further than to serve notice thereof on Nathaniel Cox, the provisional Syndic for the creditors of Christopher Adams; in consequence of which, application was made on the part of the claim to his honor Judge Harper, for relief in the premises, as per copy hereunto annexed, No. 19.

The court met, and the marshal not appearing, although duly notified, as per copy hereunto annexed, No. 20, a rule was granted by his honor Judge Harper, as per copy of the clerk's minutes, hereunto annexed, No. 21, which rule was duly served on the said marshal. The court again met on Monday, the 19th of May, 1834, when Samuel Pierce, esq., on behalf of the marshal, appeared and objected to the rule which had been granted, requiring the marshal to show cause why an attachment should not issue against him for contempt, for not obeying the mandate of the court in enforcing the execution in the case of The Life and Fire Insurance Company *vs.* Christopher Adams, alleging, among other things, that the writ was not returnable until that day, and that he had the whole day to return it in, and therefore not subject to answer; it was insisted, on the part of the claim, that it was the duty of the marshal to make his return to the rule in writing, in which, if he put himself on his exemption from liability to answer, further than to say he was not liable to be called to account until the expiration of the return day; then, if the sufficiency of his return and soundness of the plea should be objected to, it would be time enough to defend it; the judge ruled that it was in order for him to make a verbal return, that the rule was out of order, and ought not to have been granted until after return day. It was further urged, in behalf of the claim, that it was the duty of the marshal to seize forthwith, on receiving the execution; that there was an affirmation in this case, see No. 19, stating that he had not seized, and more, that he had refused to seize, giving his reason for such refusal; and that he had put forth the same reason in a return to a previous execution in this cause; that the parties might suffer great loss by the delay, and, in many cases, parties would lose their whole debt, if they had no remedy until the day fixed for the return of the execution into court; that it was the duty of the court at all times, when a complaint was made against any officer of the court, with satisfactory evidence, to inquire into their conduct.

His honor Judge Harper decided that the marshal acted at his peril; that if he neglected his duty, the remedy of the parties was by suit against him; that it was wrong in them to have presented the petition; that he had no cognizance of the case before the return of the execution, or the expira-

tion of the day fixed for the return; that he had supposed there would not have been any objection to the rule, or it would not have been granted; that an objection was made, and the rule would therefore be dismissed.

It was requested, on behalf of the claim, to have it laid over until the next day, to give time for the return to come in; and urged, that the pecuniary affairs of the Syndic were in an embarrassed state; that the Legislature had exempted property, mortgaged to the banks, from the operation of the Syndic law; and that it could not be that they could do so, and at same time deny to the constitution, and to the Congress of the United States, power to exempt property, mortgaged to citizens of other States, from its operation.

His honor Judge Harper refused this request, saying that the rule being prematurely taken out, the defect would not be cured by the delay, but that he would grant a new rule the next day; that the banks were a privileged order, and the rule was dismissed; when the marshal made the following return to the execution.

Received this process 30th April, 1834.

May 1st, 1834.

Gave notice of seizure to Nathaniel Cox, esq., provisional Syndic of C. Adams, the defendant, the property having been previously surrendered by him to his creditors, and accepted by the court of the fourth judicial district of the State of Louisiana, and placed under the charge and control of N. Cox, esq., as provisional Syndic thereof. The further execution of this writ could not be effected.

Returned, 19th May, 1834.

(Signed) JOHN NICHOLSON,
U. S. Marshal.

On the following day, the 20th of May, a new rule was obtained, requiring the marshal to answer on the 23d of May.

On the day appointed, the marshal appeared and admitted service of the rule, and put himself on the return he had made to the execution, when it was urged, that the question to be proposed was purely a question of constitutional law.

That the Constitution of the United States declared that such constitution, and the laws passed by Congress pursuant thereto, was the supreme law of the land, the constitution and laws of every State to the contrary notwithstanding.

That the constitution guarantied to the parties the aid of the court and all its officers, in enforcing their claim; that it was not competent for any State to pass a law infringing that constitutional right.

That the Constitution of the State of Louisiana forbade the passage of any law infringing a vested right.

That the Supreme Court had decided in the case of Sturgess *vs.* Crowningshield, and McMiller *vs.* McNiell, that State insolvent laws were unconstitutional, except, perhaps, for the protection of the person of the debtor.

That the circuit court of the United States for the State of Rhode Island, had decided in the case of Babcock *vs.* Weston, that it was not competent for that whole State, by a legislative act, to stop the execution of a process out of the United States court.

That, if a Legislature could not do it, a chancellor, a Supreme Court of a State, or an inferior judge, could not do it; and if neither of these high au-

thorities could do it, by what color of law could three lines from an attorney of a person calling himself Syndic, have the effect of an injunction, stopping the whole power of this court? or, by what authority could the marshal, by his mere will, assume a similar power? His duty is, obedience to the mandate of this court, and the parties must apply to the court for an injunction, or otherwise, for relief, if they are aggrieved.

It was further urged, that in this case the plaintiffs, and their successors and assigns, had a vested right, first, in the law guarantying to them the aid of the court and its officers, in the collection of the debt in question, and then by virtue of the original mortgage before a notary, again by the compromise, and then by the judgment, which bind the property from the days of their several record, all which are in proof in this cause; and even if the law of the State, from which the Syndic derives his authority, was not unconstitutional, it would be the duty of the marshal to proceed against the property, as a Syndic can only take property like heirs, subject to all its liabilities, incumbrances, and privileges; this, as relates to heirs, is the express law of Louisiana: and no principle of law is better established, than that no person can confer on another a better title than he himself possessed; how, then, it was asked, could Adams confer on his creditors, or their Syndic, a better title than he himself had; or, if a sheriff, with an execution against Adams, could only have sold his residue interest in the estate, how could his creditors, or their Syndic, sell or control more.

His honor Judge Harper said he could not hear argument as to the title to the property, or the right of the parties to have it taken by the marshal, to satisfy the execution, in defiance of the Syndic; that, although the defendant had a right to apply for an injunction, they were not confined to that remedy; that, if the proceedings were wrong, they might prosecute the marshal to a ruinous extent; that the marshal had returned, that he found it in the hands of others; and that was *prima facia* evidence that it belonged to others; and that he should not require the marshal to take the responsibility of enforcing the execution without indemnity.

It was contended, on behalf of the claim, that that objection might have been good if the marshal had contented himself with making such a return, in place of which he had returned, that there had been a surrender by Adams to his creditors; that a Syndic had been appointed, who accepted and assumed the care of the property; therefore the execution could not be enforced against it: hence it was the duty of the court to inquire into that excuse. That, if the marshal did not like the responsibility of his office, he might resign; and, if another good man could not be found to fill the office, the law could be altered, but, until altered, it must be obeyed.

His honor said he would not undertake to decide whether or not the parties had a right to the property, that it was a fit matter for the Supreme Court to consider, and that he therefore had decided to deny the application.

The judge was requested to wait until he heard the whole case opened, or had all the points presented, whether argument was heard thereon or not.

Judge Harper then stated to the representative of the claim, that he must confine himself to the rule taken against the marshal: it was insisted on the part of the claim that they were entitled to relief, on the prayer of the petition, by mandamus to the marshal, explaining and directing him to perform his duty; or to other relief, whether within the rule or not. That there was, however, another point within the rule, which was, that the seizure by the marshal, as per his return of the 6th of April, 1826, under the order

of Judge Robertson, was good; that further proceedings were prevented by an injunction, which directed the marshal to stay proceedings until the further order of the court; that there had been no further order than the judgment; that the parties had in their articles of compromise agreed for a stay of proceedings, reserving all their liens and preferences; that the 722d article of the code of practice gave to the said seizure a preference over all other creditors, unless a previous bankruptcy had taken place; and that, this was one of the most valuable of the reserved liens; that the property remained under seizure; that the law would consider it a continued seizure, and, that it was the duty of the marshal to consider it in his own hands, or that of the law, and to make the money out of it under the execution in question; but, whether a continued seizure or not, it being real estate, it it could only pass by record; and that, there could not be any such thing as its being in possession of a third party, without the record was so; and that, it was the duty of the court to inquire into that fact; that was only pretended by the marshal's return to have passed by the operations of a State law, which, being unconstitutional, was void, and no excuse for the marshal; that he was bound by the return he made, and the facts stated in that return were totally insufficient; that, by the law of Louisiana, the mere act of seizure entitled the parties to a preference; that there were many other authorities relied upon to support the opinions advanced, which would be handed to the court when the argument was over; and that, if all the proceedings had been erroneous, it was incompetent for the marshal to investigate or pass upon them; that the letter of the execution must be his only guide. His honor Judge Harper remarked that, whether or not the rule was broad enough to embrace the question of continued seizure he would not decide; that the rule spoke for itself; that he was not bound by the code of practice, and never would be, unless required by higher authority; and that he would not hear further argument; that his mind was made up; that the parties had better reserve their arguments for the Supreme Court: and he, therefore, dismissed the rule.

Your petitioners further represent that, on or about the 27th May last, application was made to his honor Judge Harper to sign the aforesaid confession, which was filed, as hereintofore stated, on the 10th day of March last, subject to all legal exceptions; due notice of the filing of such confession having been served on the said Christopher Adams, and on the said Nathaniel Cox, who had been appointed provisional Syndic of the said Adams, or of his estate; proof of which notice is on file in the said district court. Whereupon Judge Harper refused to sign the same, saying "that it was not a judgment of the court; that there was no such judgment recorded in the case, consequently there was none for him to sign."

In confirmation of the aforesaid allegations, your petitioners refer to the record of proceedings heretofore presented to this honorable court in the above entitled cause, and to authenticated copies of the opinion of Judge Harper of the 19th April last, and many other proceedings before said court duly certified by the officers of the said court, and to sundry original papers from Judge Dutton, now in possession of the parties, in interest, and ready to be produced to this honorable court; and conceiving that they are entitled to have the execution, issued on the 30th day of April last, enforced against the mortgaged premises, by the marshal of the United States, and to have a further execution for the balance of the aforesaid claim, either by authority of the aforesaid mandamus, or by having the aforesaid con-

fession of judgment, of the 10th of March last, signed, or by virtue of the original order of seizure and sale, or otherwise; therefore your petitioners pray that your honorable court will, by granting a further writ of mandamus, directed to Samuel H. Harper, judge of the district court of the United States for the eastern district of Louisiana, and, if necessary, also to John Nicholson, marshal of the said court; or, otherwise, direct such a course of proceeding as will secure the due execution of the mandamus heretofore granted by this honorable court, and afford your petitioners such other relief as they may be entitled to in the premises.

[L. S.] WM. R. THURSTON,
President of the Mercantile Insurance Company of New York.

W. RIDIN, *Att'y for Pl'ts.*

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Jacob Barker, being duly affirmed, says that he is Assistant President of the Mercantile Insurance Company of New York; that he in their behalf attended the aforesaid proceedings before the United States court for the eastern district of Louisiana, on and after the 7th of March last, and that the same are faithfully and truly detailed in the aforesaid petition; also that the other matters stated in the petition occurred or took place, as therein stated, according to the best of his knowledge, recollection, and belief.

JACOB BARKER.

Affirmed to, this 2d day of August, A. D. 1834, before me,
GEO. W. MORTON,
U. S. Commissioner.

No. 1.

STATE OF LOUISIANA, *City of New Orleans.*

Be it known, that this day, before me, Carlile Pollock, a notary public in and for the city of New Orleans, duly commissioned and sworn, personally came and appeared Christopher Adams, of the parish of Iberville, in this State, who declared and acknowledged that he is justly and truly indebted unto the Life and Fire Insurance Company, in the city of New York, in the sum of thirty-two thousand five hundred and twenty dollars and fifty cents, lawful money of these United States, for the payment of which he has granted the following described promissory notes, viz.: Five notes, each for the sum of five thousand dollars, dated the 18th day of November, eighteen hundred and twenty-three, subscribed by him, the said Christopher Adams, to the order of, and endorsed by, Joseph Erwin, of the parish of Iberville aforesaid; and afterwards endorsed by the house of trade of Messieurs William Kenner and Company, of this city, merchants, payable at the office of the Life and Fire Insurance Company, in the city of New York, at the following periods, viz.:

The first on the eighteenth of January, eighteen hundred and twenty-five, and the four others on the corresponding days of each succeeding year, so that the last will become due on the eighteenth day of January, which will be in the year eighteen hundred and twenty-nine, making, together, the sum of twenty-five thousand dollars - - - $25,000 00

And, for the remaining sum of seven thousand five hundred dollars and twenty-two dollars and fifty cents, he has granted his nine several promissory notes, each dated the eighteenth day of

November, eighteen hundred and twenty three, payable at the office of the said Life and Fire Insurance Company, in the city of New York, to the order of, and endorsed by, the said Joseph Erwin, and afterwards by the said house of William Kenner and Co., in manner following, to wit:

1. One note for fifteen hundred dollars, payable in six months	$1,500 00
2. One note for the sum of twelve hundred dollars, payable in eight months - - - - - - -	1,200 00
3. One note for the sum of nine hundred dollars, payable in thirty months - - - - - - -	900 00
4. One note for the sum of six hundred dollars, payable in forty-two months - - - - - -	600 00
5. One note for three hundred dollars, payable in fifty-four months - - - - - - - -	300 00
6. One note for the sum of twelve hundred and eight dollars and seventy-five cents, payable in twelve months - -	1,208 75
7. One note for the sum of nine hundred and six dollars and twenty-five cents, payable in twenty-four months - -	906 25
8. One note for the sum of six hundred and five dollars, payable in thirty-six months - - - - -	605 00
9. One note for the sum of three hundred and two dollars and fifty cents, payable in forty-eight months - - -	302 50
	$32,522 50

All which notes, being fourteen in number, after having been countersigned nevariatur by me, the said notary, for the purpose of identifying them with this act, have been, in the presence of the said notary and of the undersigned witnesses, delivered unto Richard Relf, of this city, esquire, agent of the said Insurance Company, the receipt whereof he hereby acknowledges: and for the purpose of securing the payment of said notes when they shall respectively fall due; and, also, to comply with the conditions contained in a certain agreement, made and executed in the city of New York on the 17th November, 1823, which, at the request of the said parties to these presents, a true copy whereof has been hereunto annexed, to make part of this act, for the purpose of explaining the obligations of the parties thereto, for as much as concerns the life insurance therein mentioned; he, the said Christopher Adams, does hereby, for himself and his heirs, specially mortgage and hypothecate unto Henry Eckford, President of the said Insurance Company, and his successor and successors in office, all and singular the property hereinafter described, viz.:

All that plantation, situate, lying, and being in the parish of Iberville, in this state, five leagues above Lafourche, designated and known by the name of the Belle plantation, measuring fourteen arpens in front, on the right bank of the river Mississippi, by eighty arpens in depth, bounded on the upper side by land heretofore of Nicholas Wilson, now the property of John Oldham, of this city, and below by land belonging to widow Blanchard, together with all the buildings thereunto belonging, being the same tract of land, which the said Christopher Adams acquired by purchase, from Aubry Dupery, and Samuel Spragins, by acts recorded in the office of the judge

of the parish of Iberville; also, all the cattle and stock, of whatever description, implements of husbandry, and moveables, now on, and belonging to said plantation; also, seventy slaves, of the following names and ages: Old Billy, fifty years, Cook, forty years, Old John, forty years, Little Moses, sixteen years, Jerome, fifty years, Old Lewis, forty years, Young Lewis, eighteen years, Kentucky Lewis, twenty years, Big Bill, twenty-seven years, Kit, twenty-five years, Frank, thirty years, Big John, twenty-six years, John Winfrey, thirty-five years, Jack Wright, eighteen years, Dick, twenty-eight years, Sandy, twenty-two years, Jim Barber, twenty-two years, Little Sam, twenty-two years, G. Sam, twenty-four years, Charles, eighteen years, Squire, sixteen years, Cuffy, sixteen years, Henry, twenty-two years, Spencer, twenty-eight years, Pompy, thirty-five years, Caleb, twenty-five years, Tom, eighteen years, Little Jim, twenty-one years, Ned, thirteen years, Old Aleck, thirty-four years, Little Aleck, ten years, Manuel, eight years, Priscey, forty years, Daphny, forty years, Peggy, thirty years, Little Aggy, eighteen years, Little Clarissa, eighteen years, Polly, sixteen years, Big Maria, twenty-four years, Lucy, twenty-two years, Lydia, twenty-seven years, Eddy, sixteen years, Sydney, fourteen years, Susan, twenty-five years, Celeste, twenty years, Jenny, twenty-six years, and her three children, Piasine of four years, Giles, three years, and Margarette, one year, Big Clarissa, twenty-six years, and her three children, Barbary, six years, Sam, four years, and John, two years, Meline, twenty-two years, and her two children, John, four years, and William, two years, Anne, twenty years, and her two children, Jim, four years, and Louisa, one year, Marianne, twenty-four years, Solomon, her child, two years, Little Maria, twenty years, and her two children, Martha, three years, and Pelage, one year, Maria Jones, twenty-four years, and her two children, Jim, six years, and Eliza, two years; all which slaves are warranted free from the vices and and maladies prescribed by law: Which lands, slaves, buildings, improvements, appertenances, cattle, stock, implements of husbandry, and moveables, are so to remain mortgaged, until the full and entire payment of all and singular, the said aforedescribed promissory notes, and of all and every part thereof, according to their tenor: And the said Christopher Adams further declared that he does moreover, for the purpose of securing the true and punctual payment of the notes, at the times when they shall respectively become due and payable, by these presents, for himself and his heirs, grant, bargain, sell, assign, transfer and set over unto the President of the said Insurance Company, and his successor and successors in office, all the crops which shall be made, from year to year on the said plantation, from and after the date of these presents, and until the said obligations and each of them, and all and every part thereof, shall have been fully paid and discharged, and hereby binds himself, and his heirs, annually, to ship, or cause to be shipped, the said crops, from New Orleans to New York, on approved vessels, and consigned to the said president, or his successor or successors in office, to be sold on account and risk of him, the said Christopher Adams, and at his cost, for which said Company shall be allowed to charge the premium for insurance, and the usual commission for selling the same.

And Richard Relf, agent of the said Insurance Company being present, declared that he does, in his said quality for and in their name and behalf, accept the foregoing mortgage and assignment; and, according to the certificate of the conservator of mortgages in this city, there are no incumbrances on the said land, slaves, and appertenances.

Done and passed at New Orleans, in the presence of George Pollock and and William Boswell, witnesses, who have signed their names as such, with the parties, and me the notary, this sixteenth day of January, one thousand eight hundred and twenty-four.

CHRISTOPHER ADAMS,
RICHARD RELF.

GEORGE POLLOCK,
W. BOSWELL.

CARLILE POLLOCK, *Not. Pub.*

No. 2.

Be it known and remembered that, on this second day of May, one thousand eight hundred and twenty-six, before me, Greenbury Ridgley Stringer, notary public in and for the city of New Orleans, duly commissioned, personally came and appeared Christopher Adams, of the parish of Iberville, in this State, planter, party hereunto of the one part, and Josiah Barker, esq., agent, and herein acting for and in behalf of the Life and Fire Insurance Company of New York, party hereunto of the other part. The said appearers declared that, whereas a certain suit is now pending in the court of the United States, for the eastern district of Louisiana, wherein the said Life and Fire Insurance Company are plaintiffs, and the said Christopher Adams is defendant.

Now, therefore, they, the said parties, enter into the following stipulations in relation to the said suit, that is to say, that the injunction granted in said suit shall be dissolved, and the defendant consents to confess judgment to the plaintiffs; and, accordingly, does hereby confess judgment in the sums following, to wit: the sum of fifteen hundred dollars, due on the eighteenth day of May, one thousand eight hundred and twenty-four; the sum of twelve hundred and eight dollars and seventy-five cents, due on the eighteenth day of November, one thousand eight hundred and twenty-four; the sum of five thousand dollars, due on the eighteenth day of January, one thousand eight hundred and twenty-five; the sum of twelve hundred dollars, due on the eighteenth day of May, one thousand eight hundred and twenty-five; the sum of nine hundred and six dollars and twenty-five cents, due on the eighteenth day of November, one thousand eight hundred and twenty-five; and five thousand dollars, due on the eighteenth day of January, one thousand eight hundred and twenty-six, being the amount of instalments of the notes mentioned in the mortgage declared on in the said suit, which have already arrived at maturity, and become payable, together with interest, to be calculated thereon from the time they have respectively fallen due and become payable, at the rate of seven per cent. per annum, according to the laws of the State of New York, where said notes were made payable, and became due: and the said Adams does further stipulate and agree that, as soon as any and every of the residue of the notes mentioned in said mortgage shall respectively fall due, he will confess judgment thereon for the amount of each note, together with seven per cent. interest from the time, each and every of the said notes shall arrive at maturity; and, in default of such confession of judgment so to be made by said Adams, he does, by these presents, constitute and appoint Henry Eckford, esq., President of the Life and Fire Insurance Company, or his successor in office for the time being, his attorney, in fact, and irrevocable in his name and stead, to appear in said court, and cause judgment to be entered up against him, the said Adams, for each and

every of said notes, with interest as aforesaid, whenever the same shall have arrived at maturity, as aforesaid. The said notes, which have not now arrived at maturity, being as follows, to wit: one note for the sum of nine hundred dollars, due the eighteenth day of May, eighteen hundred and twenty-six; one note for the sum of six hundred and five dollars, due the eighteenth day of November, eighteen hundred and twenty-six; one note for the sum of five thousand dollars, due the eighteenth day of January, eighteen hundred and twenty-seven; one note for the sum of six hundred dollars, due the eighteenth day of May, eighteen hundred and twenty-seven; one note for the sum of three hundred and two dollars and fifty-cents, due the eighteenth day of November, in the year eighteen hundred and twenty-seven; one note for the sum of five thousand dollars, due the eighteenth day of January, eighteen hundred and twenty-eight; one note for the sum of three hundred dollars, due the eighteenth day of May, eighteen hundred and twenty-eight; and one note for the sum of five thousand dollars, due the eighteenth day of January, in the year eighteen hundred and twenty-nine; and, with the notes above recited, which have already arrived at maturity, make the aggregate amount of thirty-two thousand five hundred and twenty-two dollars and fifty cents, principal, exclusive of interest thereon. And the said Adams does further give to said Henry Eckford, president as aforesaid, or to his successor in office for the time being, attorney as aforesaid, full power of substitution in the premises, and one or more attorneys under him to appoint and constitute, and the same to revoke at pleasure.

And the said Life and Fire Insurance Company hereby agree and stipulate, in consideration of such confession of judgment, and preserving all their liens, mortgages, and preferences, in and over the property mortgaged, to stay the execution and sale of the mortgaged property aforesaid, until the period on which the last note, above mentioned, shall arrive at maturity, which will be on the eighteenth day of January, in the year of our Lord one thousand eight hundred and twenty-nine, as aforesaid, and expressed in said mortgage; and the said Life and Fire Insurance Company further agree, with said Adams, to file all the notes mentioned in said act of mortgage, with the records of this suit, before the stay of execution aforesaid shall expire and terminate.

And Joseph Erwin who was the payee and endorser of the notes mentioned in the plaintiffs' petition, being also present, declared that he assents and agrees to the stay of seizure and sale of the mortgaged premises before stipulated, considering this transaction to be the best arrangement which can be made for all parties in the premises.

And it is further stipulated and agreed, by and between all the parties before named, that this transaction shall be entered upon the records of the said court of the United States, for the eastern district of Louisiana as aforesaid; and the same shall be entered up as a decree of said court, and shall have all the force and effect as though it were entered up in open court. Thus done and passed in presence of John Stringer and John Peterkin, witnesses, who hereunto sign their names as such, with the said parties, and me the notary.

CHRISTOPHER ADAMS,
JOSIAH BARKER,
JOSEPH ERWIN.

JOHN PETERKIN,
J. STRINGER.

And G. R. STRINGER, *Not. Pub.*

No. 3.

Know all men by these presents, that we, the Life and Fire Insurance Company, named and intended in and by the annexed certified copy of judgment, in consideration of the sum of twenty-five thousand six hundred and ninety-one dollars and seventy-four cents, to us in hand paid by the Mercantile Insurance Company of New York, at the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have sold, and by these presents do sell, to Josiah Barker, as agent of, and in trust for, the said The Mercantile Insurance Company of New York, the judgment specified and described in and by the annexed paper writing, against Christopher Adams, in favor of the said Josiah Barker, agent, and therein acting in the name and behalf of the Life and Fire Insurance Company of New York, and all and singular the moneys therein specified, are thereby secured, and the interest due and to grow due thereon, and the moneys and debts in the said paper writing mentioned as to become due and payable after the confession of the said judgment, and all and singular, and right, title, and interest, of, in, and to the said judgment, and the moneys and debts therein, and in the said annexed paper writing mentioned, and the interest due and to grow due thereon, to have and to hold the same unto the said Josiah Barker, his executors, administrators, and assigns, to his and their own proper use, benefit, and behalf, for ever; and as the agent of, and in trust for, the said The Mercantile Insurance Company of New York, and we, the said The Life and Fire Insurance Company, in consideration of the premises, have made, ordained, constituted, and appointed, and by these presents do make, ordain, constitute, and appoint the said Josiah Barker, his executors, administrators, and assigns, our true and lawful attorney and attorneys irrevocable, in the premises, in our names and stead, or otherwise; but to and for the proper use and benefit, and at the proper costs and charges, of the said The Mercantile Insurance Company of New York, their succesors or assigns, to take, adopt, pursue, and enforce, all lawful ways and means whatsoever in all courts and places whatsoever, for the recovery, collection, and payment, of the several sums of money specified in the annexed judgment and paper writing, and the interest due and to grow due upon the same, and to give, execute, seal, sign, and deliver, good and effectual acquittances and discharges therefor. In witness whereof, we, the said The Life and Fire Insurance Company have to these presents set our seal of incorporation, and cause the same to be subscribed by our president and secretary, in the city of New York, this twenty-eighth day of July, in the year of our Lord one thousand eight hundred and twenty-six.

J. SWIFT, *Ass't Pt.* [L. S.]

Sealed and delivered in the presence of
THOMAS ADDIS EMMET, Jr.

M. L. DAVIS, *Sec'y.*

No. 4.

UNITED STATES OF AMERICA, *ss.*

[L. S.] *The President of the United States of America to the honorable Samuel H. Harper, Judge of the District Court of the United States for the Eastern District of Louisiana, greeting*:

Whereas a certain corporation, in the city of New York, called and known by the name of the Life and Fire Insurance Company, in the city of

New York, hath heretofore, to wit, on the fifteenth February, 1826, in the year of our Lord one thousand eight hundred and twenty-six, commenced and prosecuted to judgment a certain action against Christopher Adams, in the district court of the United States for the eastern district of Louisiana; which said judgment you as judge of the said court, at a subsequent day, to wit, on the second day of June, in the year eighteen hundred and thirty-two, refused to sign, and to order execution to issue thereon, on the ground that as the successor of Judge Robertson you could not sign the same, and that the judgment must be, and could only be, signed by the judge who pronounced it; and that otherwise it would be a nullity. And whereas, heretofore, to wit, at a session of the Supreme Court of the United States, held at Washington on the second Monday of January, in the year of our Lord eighteen hundred and thirty-three, the said Supreme Court, at the instance of the said corporation, by counsel, granted a rule requiring you to show cause, if any you had, among other things, why a writ of mandamus from the said Supreme Court should not be awarded and issued to you, commanding you to sign the said judgment and to order execution to issue thereon; and whereas, at the present session of the said Supreme Court, you certified and returned to the said Supreme Court, together with the said rule, that you had refused to sign the said judgment on the ground that the judgment must be, and could only be, signed by the judge who pronounced it; and whereas, afterwards, to wit, at the same session of the said Supreme Court, last aforesaid, upon consideration of your said return, and of the cause shown by you therein against the said rule's being made absolute, and against the awarding and issuing of the said writ of mandamus, and upon consideration of the arguments of counsel, as well on your behalf, showing cause as aforesaid, as on behalf of the said corporation, in support of the said rule; it was considered by the said Supreme Court, that you had certified and returned to the said court an insufficient cause for having refused to sign the said judgment, and against the awarding and issuing of the said writ of mandamus pursuant to the rule aforesaid, the said Supreme Court being of opinion, and having determined and adjudged upon the matter aforesaid, that you were bound to sign the said judgment and to order execution to issue thereon; and it was also then and there considered, by the said Supreme Court, that the writ of the United States issue, requiring and commanding you, the said judge of the said district court, to sign the said judgment and to order execution to issue thereon. Therefore you are hereby commanded and enjoined, that immediately after the receipt of this writ, and without delay, you sign the said judgment and order execution to issue thereon, so that complaint be not again made to the said Supreme Court, and that you certify perfect obedience and due execution of this writ to the said Supreme Court, to be held on the first Monday of August next. Hereof fail not, at your peril, and have then there this writ.

Witness, the honorable John Marshall, Chief Justice of said Supreme Court, the second Monday of January, in the year of our Lord eighteen hundred and thirty-four.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

No. 5.

LIFE AND FIRE INSURANCE COMPANY OF NEW YORK *vs.* CHRISTOPHER ADAMS. } No. 2,364.

In this case the plaintiffs having filed in this court a transaction entered into between the parties, before Greenbury Ridgley Stringer, a notary public in and for the city of New Orleans, and the same being read to the court it is thereupon ordered, adjudged, and decreed, that in pursuance of said transaction, the injunction in this case shall be dissolved; and it is further ordered, adjudged, and decreed, that judgment be entered up in favor of the plaintiff, in pursuance of said transaction, for all the notes therein specified which have become due and payable, with 7 per cent. interest thereon from the time they and each of them, respectively, arrived at maturity, until final payment, to wit: the sum of $1,500, due on the 18th day of May, 1824; the sum of $1,208 75, due on the 18th day of November, 1824; the sum of $5,000, due on the 18th day of January, 1825; the sum of $1,200, due on the 18th day of May, 1825; the sum of $906 25, due on the 18th day of November, 1825; and $5,000, due on the 18th day of January, 1826.

It is further ordered, adjudged, and decreed, in pursuance of the transaction aforesaid, that whenever any of the notes mentioned in said transaction, as not yet arrived at maturity, shall become due and payable, that then judgment shall be entered up for the plaintiffs upon all and every of said notes, as they arrive at maturity, until their final payment.

It is further ordered, adjudged, and decreed, that there shall be a stay of execution on said judgment until the 18th day of January, 1829; and that if the amount of the judgment in this suit is not then paid, including principal, interest, and costs, on that day, that the lands, slaves, and moveable property described in the mortgage mentioned in the plaintiffs' petition, shall be sold, according to law, to satisfy the judgment in the premises.

It is further ordered, adjudged, and decreed, that the defendants pay costs.

(Signed,) SAMUEL H. HARPER, *Judge U. S.*

Judgment entered 18th May, 1826.

Judgment signed March 7, 1834.

No. 6.

UNITED STATES DIST. COURT, *East. Dis. Louisiana.*

SATURDAY, *8th March*, 1834.

LIFE AND FIRE INSURANCE COMPANY OF NEW YORK *vs.* CHRISTOPHER ADAMS. } No. 2,364.

On motion of George Eustis, esq., counsel for the plintiffs on filing all of the notes referred to in the transaction on file, it is ordered, in pursuance of the mandamus of the Supreme Court of the United States, requiring the honorable the judge of this court to sign the judgment rendered in the premises, and to order execution to issue; that execution do issue, for the whole amount of the judgment.

Extract from the minutes.

(Signed,) DUNCAN N. HENNEN, *Clk.*

No. 7.

DISTRICT COURT OF THE UNITED STATES, *in and for the Eastern District of Louisiana.*

The President of the United States, to the Marshal of the Eastern District of Louisiana, or to his lawful Deputy, greeting:

You are hereby commanded that you demand from Christopher Adams the sum of 1,500 dollars, with interest, at the rate of seven per centum per annum, from the 18th May, 1834, until paid; also $1,208 75 with like interest from the 18th November, 1824, until paid; also $5,000 with like interest from the 18th January, 1825, till paid; also $1,200 with like interest from the 18th May, 1825, till paid; also $906 25 with like interest from the 18th November, 1825, till paid; also $5,000 with like interest from the 18th January, 1826, till paid; also $900 with like interest from the 18th May, 1826, till paid; also $605 with like interest from the 18th November, 1826, till paid; also $5,000 with like interest from the 18th January, 1827, till paid; also $600 with like interest from the 18th May, 1827, till paid; also $302 50 with like interest from the 18th November, 1827, till paid; also $5,000 with like interest from the 18th January, 1828, till paid; also $300 with like interest from the 18th May, 1828, till paid; also $5,000 with like interest from the 18th January, 1829, until paid; and costs of suit, cash which the Life and Fire Insurance Company of New York lately recovered by judgment of the district court of the United States for the said district; and, if he shall not pay the same on demand, that then you cause the same to be made, out of the personal estate of the said Christopher Adams, except slaves in your district, if sufficient personal estate, exclusive of slaves, can be found therein; but, if sufficient personal estate of the said Christopher Adams, exclusive of slaves, cannot be found in your district, that then you cause the same to be made out of the real estate and slaves of the said Christopher Adams, mentioned in the annexed copies of petition and mortgage, or out of his property generally in your district, whereof he was owner of on the 18th day of May, 1826, into whose hands soever the same may have come; and that you have those moneys before our said court, to render to the said Life and Fire Insurance Company of New York, for the judgment aforesaid, on the 3d Monday of May, 1834, together with this writ.

Witness the hon. Samuel H. Harper, judge of the said court, this 10th day of March, 1834.

(Original Signed,) DUNCAN. N. HENNEN, *Clk.*

No. 8.

NEW ORLEANS, 10*th March*, 1834.

SIR: There being an error of form in the writs issued in the cases of the Life and Fire Insurance Company vs. Christopher Adams, and the heirs of Wilson, I request you to return them immediately *not executed.*

Your obedient servant,

(Signed,) G. EUSTIS, *Pl'ffs Att'y.*

J. NICHOLSON, Esq., *Marshal.*

No. 9.

The clerk of the United States' district court is requested to cancel the

within execution, and to issue a new execution for the same amount, and of similar import, except that you direct the marshal to seize and sell, *firstly*, the lands, slaves, and moveable property mentioned in the act of mortgage of Christopher Adams, to the Life and Fire Insurance Company, dated the 16th day of January, 1824; which lands, slaves, and moveable property, were owned, at that period, by the said Christopher Adams.

(Signed,) JOSIAH BARKER.

NEW ORLEANS, 11*th March*, 1834.

No. 10.

District Court of the United States for the Eastern District of Louisiana.

LIFE AND FIRE INSURANCE COMPANY *vs.* CHRISTOPHER ADAMS. } No. 2,364.

Be it known and remembered that, on the tenth day of March, eighteen hundred and thirty-four, I, Josiah Barker, successor to the title to, and to the control over certain notes, debts, dues, and demands, hereinafter enumerated, with full and irrevocable powers in the premises filed in this court, from the Life and Fire Insurance Company, do hereby, in behalf of the defendant, Christopher Adams, by virtue of a certain compromise entered into between the aforesaid Christopher Adams, of the parish of Iberville, in this State, planter, on the one part, and Josiah Barker, agent, and therein acting for, and in behalf of the Life and Fire Insurance Company, of the other part, on the second day of May, eighteen hundred and twenty-six; which compromise was confirmed by decree of this court, entered on its records on the eighteenth day of May, eighteen hundred and twenty-six, and signed by the honorable Samuel H. Harper, on the seventh day of March, eighteen hundred and thirty-four, pursuant to mandamas granted by the Supreme Court of the United States in February last, confess judgment to the plaintiffs in the above entitled cause, the same having been omitted or neglected by the said Christopher Adams in the following sums, for which the notes of the said Adams enumerated in the aforesaid compromise, viz.: for the sum of nine hundred dollars, with interest, at seven per cent. per annum, from the eighteenth day of May, eighteen hundred and twenty-six, until paid; the sum of six hundred and five dollars, with interest, at seven per cent. per annum, from the eighteenth day of November, eighteen hundred and twenty-six, until paid; the sum of five thousand dollars, with interest, at seven per cent. per annum, from the eighteenth day of January, eighteen hundred and twenty-seven, until paid; the sum of six hundred dollars, with interest, at seven per cent. per annum, from the eighteenth day of May, eighteen hundred and twenty-seven, until paid; the sum of three hundred and two dollars and fifty cents, with interest, at seven per cent. per annum, from the eighteenth day of November, eighteen hundred and twenty-seven, until paid; the sum of five thousand dollars, with interest, at seven per cent. per annum, from the eighteenth day of January, eighteen hundred and twenty-eight, until paid; the sum of three hundred dollars, with interest, at seven per cent. per annum, from the eighteenth day of May, eighteen hundred and twenty-eight, until paid; the sum of five thousand dollars, with interest, at seven per cent., from the eighteenth day of January, eighteen

hundred and twenty-nine, until paid; from which judgment there is to be deducted the sum of two hundred and forty-two dollars and thirty-seven cents, with interest, at seven per cent. per annum, from the eighteenth day of January, eighteen hundred and twenty-nine; for which the said Josiah Barker, gave a certificate to the said Adams.

And I do hereby request, direct, and agree, that this confession of judgment be entered upon the records of the district court of the United States, for the eastern district of Louisiana, as the decree of said court; and that it shall have all the force and effect as though it were entered up in open court.

JOSIAH BARKER.

No. 11.

DISTRICT COURT OF THE UNITED STATES, *for the Eastern District of Louisiana.*

The President of the United States, to the Marshal of the Eastern District of Louisiana, or to his lawful Deputy, greeting:

You are hereby (as heretofore) commanded that you demand from Christopher Adams the amount of the following notes, with seven per cent. per annum interest, on all and every of them from their respective days of maturity, until paid, viz.: $1,500, due 18th May, 1824; $1,208 75, due 18th November, 1824; $5,000, due 18th January, 1825; $1,200, due 18th May, 1825; $906 25, due 18th November, 1825; $5,000, due 18th January, 1826; $900, due 18th May, 1826; $605, due November 18th, 1826; $5,000, due 18th January, 1827; and $600, due May 18th, 1827; $302 50, due 18th November, 1827; $5,000, due 18th January, 1328; $300, due 18th May, 1828; $5,000, due 18th January, 1829; and costs of suit, cash which the Life and Fire Insurance Company of New York, lately recovered by judgment of the district court of the United States for the said dirtrict; and, if he shall not pay the same on demand, that then you cause the same to be made out of the slaves and property referred to in the mortgage annexed to the plaintiffs' petition; but, if not sufficient then out of the property generally, real or personal of said Christopher Adams, found in your district, whereof he was owner on the 18th day of May, 1826, into whose hands soever the same may have come.

And that you have those moneys before our said court, to render to the said Life and Fire Insurance Company of New York, for the judgment aforesaid, on the third Monday of May, 1834, together with this writ.

Witness hon. Samuel H. Harper, judge of the said court, this 12th day of March, 1834.

DUNCAN N. HENNEN, *Clk.*

Clerk's fees, $29 66⅔.
Marshal do. $
Attorney do. $

No. 12.

PLAQUEMINE, *March 18th*, 1834.

THE LIFE AND FIRE INSURANCE COMPANY
vs.
CHRISTOPHER ADAMS.

SIR: I have to request that you give notice to Christopher Adams and to

Nathaniel Cox, the provisional Syndic of the estate of the said Adams; that you consider yourself in possession of the property seized, as per your return of the 6th April, 1826, to the order of seizure and sale, dated the 16th February, 1826, in the above entitled suit; and that you intend to proceed and sell the same on the execution now in your hands in the said suit; and that you place a competent care-taker in possession of the said property, until it shall be sold and delivered. If, as you have verbally declared to me, you should refuse to do this, I hereby demand, without waiving my right to require that service, or to hold you answerable for all loss, expense, and damage, which may result from your past or future proceedings, or omissions, in relation to the said property; that you forthwith seize the property by virtue of the execution now in your possession, as it appears to me impossible that the Syndic can have more authority over the property than Mr. Adams had, and as he could only convey the residue interest, if any, after satisfying the mortgage, the Syndic cannot have more without paying off the mortgage. At all events, I consider that the property was in the hands of the United States' court when the Syndic was appointed; and he cannot deprive the officers of that court of prior possession, by any law of the State.

Your obedient servant,

JOSIAH BARKER.

JOHN NICHOLSON, Esq., *U. S. Marshal*
Of the Eastern District of Louisana.

No. 13.

LIFE AND FIRE INSURANCE COMPANY OF NEW YORK *vs.* THE HEIRS OF NICHOLAS WILSON. } No. 2,415.

David Dunmore Chesnut, being duly sworn, doth depose and say—

That Mrs. Eliza Wilson, the widow of Nicholas Wilson, departed this life at Iberville, on the third day of January, of this present year 1834, and has made a will in which this deponent is named the sole testamentary executor by her; and as such has been qualified in the court of probates for the parish of Iberville.

That Robert Thompson departed this life about five or six years ago; that all the heirs of the said Nicholas Wilson are either married women, or minors.

D. D. CHESNUT.

Sworn to and subscribed before me, this 8th day of April, 1834.

DUNCAN N. HENNEN, *Clerk.*

No. 14.

UNITED STATES COURT, *East. District of Louisiana.*

TUESDAY, *8th April*, 1834.

Special court. Present, Hon. Samuel H. Harper.

LIFE AND FIRE INSURANCE COMPANY OF NEW YORK *vs.* THE HEIRS OF NICHOLAS WILSON. } No. 2,415.

On motion of Alfred Hennen, esq., in behalf of David D. Chesnut, testa-

mentary executor of Mrs. Eliza Wilson, and on filing the affidavit of the said Chesnut—

It is ordered by the court that the counsel of the plaintiffs show cause, on Saturday next, at 12 o'clock, why the execution which has issued in this case should not be quashed and annulled.

Extract from the minutes.

DUNCAN N. HENNEN, *Clerk.*

No. 15.

UNITED STATES COURT, *for the Eastern District of Louisiana.*

Special court. SATURDAY, 19*th April*, 1834.

Present, Hon. Samuel H. Harper.

LIFE AND FIRE INSURANCE COMPANY OF NEW YORK *vs.* THE HEIRS OF NICHOLAS WILSON. } No. 2,415.

The court having maturely considered this case, now order, adjudge, and decree, that the rule taken on the plaintiffs to show cause why the execution sued out by them in this case should not be quashed and annulled, be made absolute, and that said execution be quashed and annulled, as having issued for more than than the amount of the judgment obtained, and that a *fieri facias* issue against the property mortgaged for the sum of eleven thousand eight hundred and fifty-two dollars and fifty cents, being the whole amount of the judgment rendered on the 18th May, 1826, with interest on each note comprehended in that judgment, at the rate of seven per centum per annum, from the time each note became due until final payment, and costs of suit.

No. 16.

JOHN NICHOLSON, Esq., *Marshal.*

DEAR SIR: As counsel for N. Cox, Syndic of the creditors of Christopher Adams, I am authorized to notify you, that any attempt to seize the property in his hands, at the suit of the Life and Fire Insurance Company, will be resisted; and that you will proceed therein at your peril.

Resp'y.,
GEO. STRAWBRIDGE.

March 15th, 1834.

No. 17.

By virtue of this writ a notice of seizure was served on Nathaniel Cox, esq., on the 14th day of March, 1834, provisional Syndic of Christopher Adams, the defendant, and the seizure of the property referred to in the execution proffered to be made by the marshal on receiving good and sufficient indemnity, which was not acceded to by the plaintiffs' agent; and this writ is now returned by written instructions, of date the 26th April, 1834, hereunto annexed

JOHN NICHOLSON,
U. S. Marshal.

No. 18.

DISTRICT COURT OF THE UNITED STATES, *Eastern District of Louisiana.*

The President of the United States to the Marshal of the Eastern District of Louisiana, or his lawful Deputy, greeting:

You are hereby commanded to levy on, seize, and sell, the property described in the mortgage annexed to plaintiffs' petition in suit No. 2,364, of the docket of suits in this court, entitled The Life and Fire Insurance Company of New York *vs.* Christopher Adams, to satisfy the said Life and Fire Insurance Company for the sum of $1,500, with interest at the rate of seven per centum per annum from the 18th day of May, 1824; also for the sum of $1,208 75, with like interest from the 18th day of November, 1824; also for the sum of $5,000, with like interest from the 18th day of January, 1825; also for the sum of $1,200, with like interest from the 18th day of May, 1825; also for the sum of $906 25, with like interest from the 18th day of November, 1825; also for $5,000, with like interest from the 18th day of January, 1826; and costs of suit, cash which the said Life and Fire Insurance Company lately recoved by judgment of the district court of the United States for the said district; which property in the abovementioned mortgage referred to, you shall levy on, seize, and sell, into whose hands soever the same may have come.

And that you have those moneys before our said court, to render to the said Life and Fire Insurance Company, for the judgment aforesaid, on the 3d Monday of May, 1834, together with this writ.

[L. S.] Witness, the honorable Saml. H. Harper, judge of the said court, this 30th of April, 1834.

DUNCAN. N. HENNEN, *Clk.*

No. 19.

UNITED STATES DISTRICT COURT, *for the Eastern District of Louisiana.*

THE LIFE AND FIRE INSURANCE COMPANY OF NEW YORK
vs.
CHRISTOPHER ADAMS.

To the honorable Samuel H. Harper, Judge:

The petition of Josiah Barker, the trustee of, and agent for, the claim, to collect which the above entitled suit was instituted, respectfully respresents, that execution issued from this honorable court, in words and figures, following, viz.

(See appendix No. 18.)

Your petitioner further represents, that the said execution was placed in the hands of John Nicholson, esq., United States' marshal for the said district, on or about the day of its date, with a request that the said marshal would proceed to seize and sell the mortgaged premises in question.

Your petitioner further represents, that the said marshal has informed your petitioner that he has given notice of the existence of such execution in his hands, or otherwise served notice on Nathaniel Cox, who has been appointed provisional Syndic for the creditors of said Christopher Adams, and that he declines to proceed further or otherwise against the property in

question, the laws of Louisiana, in his opinion, prohibiting him from seizing the property of an insolvent, which has been surrendered by the insolvent to his creditors.

Your petitioner further represents, that a writ of seizure issued in this cause, on the 16th February, 1826, and that the premises in question were seized by the said marshal by virtue of such writ; that its further operation was suspended, for a limited period, by the compromise between the parties, dated the 2d day of May, 1826, and on file in this court; that such limitation has expired; that in the eye of the law the property remains in the hands of the marshal, of which he could not be dispossessed by any surrender to creditors; that the present proceeding is against property, not persons; that if the original seizure should not be deemed in force, still it would be the duty of the marshal to seize and sell, inasmuch as the defendant could not deprive the plaintiffs of their mortgage and judgment, preferences, and the interest he may have transferred to his creditors or to the provisional Syndic, could not have been any thing more than his residue interest in the said premises, or his interest therein subject to existing incumbrances; that the judgment on which the said execution was issued was recorded in the parish of Iberville, (in which parish the property is situated,) on the 20th May, 1826, as per copy hereunto annexed, mark A. See appendix, No. 2.

Your petitioner begs leave further to represent to this honorable court, that the Constitution of the United States secures to the plaintiffs the benefit of pursuing their claim through this court and its officers; and no law, which any individual State can pass, can devest them of that right, and compel them to pursue it through any other tribunal.

Your petitioner begs leave to represent, that in the case of The Life and Fire Insurance Company *vs.* The Heirs of Nicholas Wilson, that the marshal refused to enfore a similar execution against mortgaged premises without a bond of indemnity with satifactory security; which your petitioner considers an act of great oppression, not warranted by law.

Your petitioner, therefore, prays for the interposition of this honorable court in the premises, to the end that the marshal shall forthwith proceed and sell the premises included in the mortgage referred to in the said execution, in the suit of The Life and Fire Insurance Company of New York *vs.* Christopher Adams, without requiring any bond of indemnity, or that a rule be granted requiring the said John Nicholson, espuire, to show cause why he should not be attached for contempt of this honorable court, for disobeying or refusing to execute its mandate, or for such other relief in the premises as your petitioner is by law entitled to.

JOSIAH BARKER.
By his Att'y., JACOB BARKER.

No. 20.

UNITED STATES COURT, *for the Eastern District of Louisiana.*

LIFE AND FIRE INSURANCE COMPANY OF NEW YORK *vs.* CHRISTOPHER ADAMS.

NEW ORLEANS, *6th May*, 1834.

SIR: You have, herewith, copy of a petition which intend to present to